



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 03281101

DATE: MAR. 18, 2021

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for an Advanced Degree Professional

The Petitioner, a not-for-profit acute care hospital, seeks to employ the Beneficiary as a surgeon and requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that although the Beneficiary is a professional holding the foreign equivalent of an advanced degree, the Beneficiary did not meet the requirements of section 212(a)(5)(B) of the Act, which provides that graduates of medical schools not accredited by a Secretary of Education (SOE)-approved accrediting body who are coming to the United States to practice medicine are inadmissible unless they have passed a prescribed medical licensing examination and an English language proficiency test.

On appeal the Petitioner asserts that the Beneficiary is exempt from these requirements in section 212(a)(5)(B) of the Act by the provision in section 101(a)(41) of the Act which in defining the term “graduates of a medical school” specifically excludes “aliens who are of national or international renown in the field of medicine.” The Petitioner claims that the Beneficiary qualifies as a physician of national or international renown because he has already been granted H-1B nonimmigrant status on that basis.

Upon further review of the record and the Petitioner’s arguments, we remand these proceedings to the Director for further action and the issuance of a new decision.

Accordingly, the following order shall be issued.

ORDER: The Director’s decision is withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis and entry of a new decision.